

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION

4 CHRISTOPHER D. SHURLAND,)
5 individually and as the)
6 representative of a class of)
7 similarly-situated persons,)

8 Plaintiff,)

9 -vs-)

10 No. 08 C 2259)

11 BACCI CAFE & PIZZERIA ON OGDEN,)
12 INC.,)

13 Defendant.)

14 DEPOSITION OF:
15 DOUGLAS ALAN PORCH

16 The deposition of DOUGLAS ALAN PORCH,
17 called as a witness pursuant to the Rules of Federal
18 Procedure for the taking of depositions, taken
19 before Donna L. Volante, a Certified Shorthand
20 Reporter for the State of Illinois, at the Grundy
21 County Courthouse, Morris, Illinois, commencing on
22 the 29th day of January, 2009, at 10:25 a.m.
23
24

1 PRESENT:

2 ANDERSON & WANCA
 3 BY: MR. GERALD E. NORA
 4 3701 Algonquin Road
 Suite 760
 Rolling Meadows, Illinois 60008
 Appeared on behalf of the Plaintiff;

5 SMITH AMUNDSEN, LLC
 6 BY: MS. MOLLY ARRANZ
 7 150 North Michigan Avenue
 Suite 3300
 Chicago, Illinois 60601
 8 Appeared on behalf of the Defendant,
 Bacci Cafe and Pizzeria;

9 SONNENSCHNEIN, NATH & ROSENTHAL, LLP
 10 BY: MR. THOMAS A. ANDREOLI
 8000 Sears Tower
 11 233 South Wacker Drive
 Chicago, Illinois 60606
 12 Appeared on behalf of Douglas Porch.

13
 14 I N D E X

15 THE WITNESS

16 DOUGLAS ALAN PORCH

17 EXAMINATIONS

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20 DEPOSITION EXHIBITS

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24

1 (The Witness was duly sworn.)

2 MS. ARRANZ: Sir, would you state and
3 spell your name for the record, please.

4 THE WITNESS: Douglas, D-o-u-g-l-a-s.
5 Alan, A-l-a-n. Porch, P-o-r-c-h.

6 MS. ARRANZ: Let the record reflect that
7 this is the subpoenaed deposition of Douglas Porch
8 taken in accordance with the Federal Rules of Civil
9 Procedure and any applicable local rules of the
10 Northern District of Illinois.

11 DOUGLAS ALAN PORCH,
12 called as a witness herein, having been first duly
13 sworn, was examined and testified as follows:

14 E X A M I N A T I O N

15 BY MS. ARRANZ:

16 Q. Mr. Porch, have you ever given your
17 deposition before?

18 A. I have done a deposition before.

19 Q. Okay. How many times before have you
20 given your deposition?

21 A. Once.

22 Q. And what kind of a case was that?

23 A. Car accident.

24 Q. Were you a party to that lawsuit?

1 A. Yes, I was the person that had the
2 accident, so --

3 Q. And how long ago was the car accident and
4 the deposition?

5 A. Approximately 20 years.

6 Q. Well, I'm going to go through some ground
7 rules for the deposition today in case you've
8 forgotten from 20 years ago.

9 If at any time you don't understand a
10 question that I have asked, I would ask that you ask
11 me to rephrase the question because if you answer a
12 question, I'm going to assume that you understood
13 the question and that you've answered accordingly;
14 is that fair?

15 A. That's fair.

16 Q. Please answer all the questions that I ask
17 and that Mr. Nora asks out loud because the court
18 reporter is here and she can't take nods of the head
19 down in a way that we'll all understand later. Does
20 that make sense?

21 A. Yes.

22 Q. Also don't answer uh-huh or uh-uh. I will
23 try and pick up on it if you do. Please answer yes
24 or no and other verbal ways; is that okay?

1 A. Yes.

2 MR. NORA: Can we go off the record for a
3 second.

4 (Discussion had off the record.)

5 BY MS. ARRANZ:

6 Q. And also sometimes it gets where you
7 anticipate what I'm going to ask. Please wait until
8 I finish asking my question before you answer. I
9 will try to do the same with you before I ask my
10 next question, okay?

11 A. Okay.

12 Q. And if you need to take a break obviously
13 at any time, please let us know.

14 A. Okay.

15 Q. Are you represented by Counsel here today?

16 MR. ANDREOLI: Yes, he is.

17 BY MS. ARRANZ:

18 Q. Okay. And it's Mr. Andreoli; is that
19 right?

20 A. Correct.

21 Q. Did you meet with Mr. Andreoli before
22 today's deposition?

23 A. Before we walked in, yes.

24 Q. Okay. For just approximately how long?

1 Was it just a few minutes?

2 A. 15 minutes.

3 Q. Okay. Have you spoken to Gerry Nora
4 before today's deposition?

5 A. No.

6 Q. Have you spoken with anybody at National
7 Translink prior to today's deposition?

8 A. Yes.

9 Q. And to whom did you speak?

10 A. I called my boss when I received the
11 subpoena, my ex-boss, because I signed a piece of
12 paper that I said I would not -- you know, when I
13 got my severance package, that I would not, you
14 know, disclose company business or anything, you
15 know, and when I got the subpoena, I called and told
16 him that I was going to honor the subpoena. He said
17 I should do so and that is the gist of it.

18 Q. And whom -- Your boss' name is?

19 A. Mr. Tracy.

20 Q. And you talked to Mr. Tracy approximately
21 when you got the subpoena for your deposition; is
22 that right?

23 A. Correct.

24 Q. And the only thing you spoke to him about

1 was the fact that you were coming in for your
2 deposition; is that right?

3 A. Right, I was protecting myself because I
4 did sign the paper. I said, just -- Well, he says,
5 that is besides the point. You have to honor that,
6 and that is where we left it.

7 Q. And he didn't tell you anything about his
8 deposition in this case, right?

9 A. No, not at all.

10 Q. What is your current address?

11 A. 109 West Jackson, apartment No. 32, right
12 here in Morris.

13 Q. And how long have you lived at 109 West
14 Jackson?

15 A. Ten months.

16 Q. And where were you living prior to that
17 address?

18 A. Aurora. Do you need the address?

19 Q. No, that is okay. Do you have any
20 intention to move any time soon?

21 A. Not that I can see right now, no.

22 Q. What is your current phone number?

23 A. 815-513-5048.

24 Q. Your date of birth?

1 A. 7/8 of 1964.

2 MS. ARRANZ: Can we go off the record for
3 a minute.

4 (Discussion had off the record.)

5 BY MS. ARRANZ:

6 Q. Mr. Porch, what is your highest level of
7 education?

8 A. 12th grade. I went to high school.

9 Q. And where was your high school located?

10 A. East Aurora.

11 Q. And when did you graduate from high
12 school?

13 A. 1983.

14 Q. Do you have any certificates or degrees
15 behind your high school education?

16 A. No, I do not.

17 Q. Are you working now?

18 A. Currently I'm unemployed.

19 Q. Where was your last place of employment?

20 A. The Super Pantry down the street. It's a
21 gas station in Morris.

22 Q. And how long ago did you work there?

23 A. November was when I left there.

24 Q. November of 2008?

1 A. Yes.

2 Q. And how long did you work at the Super
3 Pantry?

4 A. Five months.

5 Q. And before Super Pantry, where were you
6 employed if anywhere?

7 A. National Translink.

8 Q. And when did you leave National Translink?

9 A. January of '08.

10 Q. So between January 2008 and November 2008,
11 were you employed?

12 A. I was on unemployment and then I got the
13 job at the gas station.

14 Q. Okay. How long were you employed at
15 National Translink? What was your first day of
16 employment I guess is a better question.

17 A. I know I was there going on five years. I
18 believe it was -- Couldn't tell you the exact date
19 off the top of my head. I got it written down at
20 home.

21 Q. Do you recall if it was the beginning of
22 2003 or the end of 2002?

23 A. No, it was in January, so I'm -- it was
24 four years -- four years plus. I was going on five

1 years. Couldn't tell you. I got -- I couldn't tell
2 you honestly right now exactly for sure that I know
3 the date.

4 Q. But you recall it being in January. Is
5 that the --

6 A. Right.

7 Q. -- day you started?

8 And you stated that you ended your
9 employment there in January of 2008; is that right?

10 A. Right.

11 Q. And you think it was about five years?

12 A. It was going on five years, yes.

13 Q. So could it have been January 2003 to
14 January 2008?

15 A. Right. Yes, excuse me.

16 Q. Okay. Did you leave on good terms with
17 the company?

18 A. Yes.

19 Q. When you were working for National
20 Translink, where was your office located?

21 A. I was in -- on the main floor. On the
22 19th floor of One Tower Lane.

23 Q. In what city?

24 A. Oak Brook Terrace.

1 Q. During your time of employment with
2 National Translink, was that your only office?

3 A. Yes.

4 Q. What was your job title or position when
5 you first started at National Translink?

6 A. Customer service.

7 Q. Were you a customer service
8 representative?

9 A. Yes.

10 Q. Did you have any managerial position with
11 the company at that point?

12 A. No, I did not.

13 Q. Did your position with the company change
14 over time?

15 A. No, I was pretty much customer service the
16 whole time I was there.

17 Q. And you were always a customer service
18 agent or representative?

19 A. Correct.

20 Q. Can you give me a description of your,
21 like, duties and responsibilities as a customer
22 service agent?

23 A. Reconciling statements, paper orders,
24 complaints, fielding the customer service queue

1 call, you know, people asking about their rates and
2 different -- You know, it's a wide assortment of
3 calls just handling the customer service phone.

4 Q. So you would field calls essentially?

5 A. Field calls, correct.

6 Q. Did you have any kind of written
7 correspondence with customers over that five year
8 time period?

9 A. Written correspondence with -- from myself
10 or -- you know, I know they got their statements.
11 Other than that, I didn't have any correspondence
12 with people, no.

13 Q. Okay. So your interaction on a one-on-one
14 basis with a customer was only over the phone?

15 A. Correct.

16 Q. Did you do any kind of technical support
17 at National Translink?

18 A. No, I didn't. I was not in technical.

19 Q. So you wouldn't have helped with
20 programming or reprogramming of terminals?

21 A. I did not reprogram or program terminals.
22 If, you know, someone needed an override or a HALO
23 adjustment or something to that point, we had -- you
24 know, we would tell them what buttons to push

1 according to, you know, a piece of paper that we had
2 out there, but as far as programming their terminal
3 with their parameters, no, I had nothing to do with
4 that.

5 Q. Do you have any experience or education in
6 that sort of technical field of computers and
7 terminals, credit card terminals?

8 A. Not to program them, no. To -- knowing
9 what buttons to push for certain things and how to
10 do a sale and how to operate, yes. As far as how to
11 program, no.

12 Q. Okay. And you were saying before that
13 your understanding of helping somebody do an
14 override, for example, is something that you would
15 have to follow a sheet, a layout of instructions?

16 A. Correct.

17 Q. And you didn't have any understanding or
18 experience separate and apart from that kind of
19 instruction sheet, right?

20 A. Correct.

21 Q. Did you -- This is slightly redundant.
22 Did you ever hold a position of risk manager at
23 National Translink?

24 A. No.

1 Q. Did you ever hold a position in sales?

2 A. No.

3 Q. If someone wanted to reach you at National
4 Translink, did you have a direct phone line?

5 A. They would call the customer service line
6 or they could call National Translink and go through
7 the operator. I had an extension.

8 Q. You did have an extension?

9 A. Quite a few. You know, I moved from desk
10 to desk and they give you a different extension, but
11 you know --

12 Q. So you didn't have a direct line?

13 A. No, I didn't have my own line. It was
14 just a basic common line, you know, and they said,
15 Doug, pick up line two, you know, and it would be
16 for me.

17 Q. So if somebody called National Translink
18 when you were employed there and asked for Doug
19 Porch, the operator would essentially direct them to
20 you --

21 A. Right.

22 Q. -- where you were sitting?

23 A. Yeah, wherever I happened to be at that
24 time.

1 Q. Okay. What was the number, just out of
2 curiosity, for National Translink's customer service
3 line if you know?

4 A. I can't recall the number. I know the
5 number for -- to get directly in there, but I never
6 called the customer service line, so I never
7 really --

8 Q. Okay. Was this customer service phone
9 number separate and apart from, like, the general
10 phone number --

11 A. Yes.

12 Q. -- for National TransLink?

13 A. Yes. It was an 800 number opposed to the
14 other one would be a direct line.

15 Q. Was there a separate phone number for
16 technical support separate and apart from the
17 customer service line?

18 A. No, they would call in on the customer
19 service line and be transferred to technical support
20 after it was screened if they really needed it
21 because lots of people, you know --

22 Q. They think they want technical support but
23 they really don't need it?

24 A. Right. They want to order paper, you

1 know. It's --

2 Q. All right. Now generally speaking, what
3 kind of company was -- or is National Translink?

4 A. Credit card processor.

5 Q. And when you say credit card processor,
6 does that mean that they would facilitate services
7 of credit card machines at the point of sale?

8 A. Can you --

9 Q. I will withdraw the question. Why don't
10 you just tell me what you mean by credit card
11 processor. What were --

12 A. They process -- Businesses work with them
13 and they process their credit card transactions.

14 Q. Do you know anything about how that was
15 processed? You know, it's my understanding from a
16 previous deposition in this case, Mr. Tracy
17 actually, that National Translink would use a
18 processing center separate and apart from National
19 Translink, and that processing center would
20 essentially run the transactions there.

21 Does that make sense?

22 A. Yes.

23 Q. And is that accurate?

24 A. Yes. I believe it was out of California,

1 yes.

2 Q. Do you recall the names of the processing
3 centers that National Translink used during the time
4 you were employed there?

5 A. Now as I remember, CardSystems.

6 Q. Any other ones?

7 A. Not that I can recall.

8 Q. Was CardSystems always the processing
9 center during that five year time of employment?

10 A. They were -- As long as I was there they
11 were there. I know they had a time when they
12 weren't processing cards. Who they used at that
13 time there, I couldn't tell you.

14 Q. Does the name Maverick ring a bell with
15 you?

16 A. Yes.

17 Q. Was that another name for CardSystems?

18 A. I believe so.

19 Q. Did National Translink while you were
20 employed there have the capacity to provide both,
21 like, a credit card terminal and the services for
22 the credit card terminal?

23 A. Yes, they sold point of sale terminals.

24 Q. What kind of terminals if you know or

1 recall did National Translink sell while you were
2 employed there?

3 A. The Nurits.

4 Q. Can you spell it for me.

5 A. N-u-r-i-t. Can't recall the other one.

6 It was a little one that they had towards the end of
7 when I was there. I can't recall the name.

8 Q. Okay. So for the five years that you were
9 at National Translink, you do recall that they sold
10 Nurits?

11 A. Correct.

12 Q. And what kind of -- I know you have talked
13 a little bit about, you know, overrides and that
14 sort of thing. Can you give me a general idea of
15 what kind of services National Translink provided to
16 its customers?

17 A. They would handle people's credit card
18 transactions. I know -- and they did -- they had
19 some risk management going on there.

20 Q. To kind of bypass some of this, would you
21 defer to Jim Tracy and his description of the kind
22 of services that National Translink provided? Would
23 he be a better person to --

24 A. Yes.

1 Q. -- get that information?

2 A. Yes.

3 Q. Did you have a supervisor while you were
4 at National Translink?

5 A. My immediate supervisor was Katrina
6 Hansen.

7 Q. Was she your supervisor for the entire
8 time you were employed by National Translink?

9 A. Yes.

10 Q. Did you report to anybody else besides
11 Katrina?

12 A. Chain of command went to Katrina, but if
13 asked questions by Mr. Tracy or Mr. Boursack or any
14 of the people above me, of course I would answer,
15 but my general person that I reported to was
16 Katrina.

17 Q. And it's your understanding that Katrina
18 Hansen essentially reported to Mr. Boursack, who
19 reported to Mr. Tracy?

20 A. Chain of command, she was above me.

21 Q. Okay. But that is essentially chain of
22 command?

23 A. Correct.

24 Q. So it would be fair to say then in 2006

1 through 2007 you would have been reporting to
2 Katrina Hansen?

3 A. That is correct.

4 Q. Were you in a division or department
5 within customer service at National Translink?

6 A. Customer service was pretty much Katrina,
7 myself, and the people in risk would take calls when
8 necessary, but it was usually just a couple people,
9 her and I.

10 Q. Okay. So it was essentially you and
11 Katrina? I mean, you said there were some people
12 that would do kind of risk managing. Who were those
13 folks, do you recall?

14 A. I can give you first names.

15 Q. That would be great.

16 A. Nina, David and Jennifer.

17 Q. Was there an individual by the name of
18 Noel who worked with you at any point in time?

19 A. Noel was in technical support.

20 Q. Do you remember when Noel was employed by
21 National Translink?

22 A. He was there when I started and there when
23 I left.

24 Q. Okay. I know you told me that technical

1 support would be like a separate group from customer
2 service.

3 A. Separate group from customer service on
4 the other side of the building.

5 Q. Okay. And do you know how many people
6 were in technical support for the five years that
7 you were at National Translink?

8 A. It fluctuated. Terry and Noel. Couple
9 other guys. I couldn't tell you their names.

10 Q. Okay. Do you have, like, an approximate
11 number of the people that would be in technical
12 support?

13 A. When I left there, there was two people
14 running tech support. When I started there they had
15 up to four.

16 Q. And was that essentially the amount that
17 would be in technical support during the time you
18 were at National Translink, between two and four
19 people?

20 A. Correct.

21 Q. What about customer service? I know you
22 mentioned there was a couple of you. I got probably
23 about five names down including yours, five or six
24 names.

1 Was that the amount of people that was in
2 the customer service group from the time that you
3 started at National Translink until the time you
4 left?

5 A. They had a couple young ladies that they
6 tried out. Lasted a month, two weeks, and were
7 gone, but I couldn't recall their names, but
8 essentially those other people that I mentioned were
9 our team.

10 Q. And they were pretty much there the whole
11 time you were there; is that right?

12 A. Yes.

13 Q. Do you know what a credit card terminal
14 is?

15 A. Yes.

16 Q. And what is it exactly?

17 A. It is a device that is used for running
18 their card through and approving sales.

19 Q. So it is essentially a machine that you
20 would see at a restaurant, for example, when you --
21 they swipe something down the side, the credit card,
22 and it reads up something and prints out a receipt;
23 is that right?

24 A. Correct.

1 Q. And that would be what those Nurits were;
2 is that right?

3 A. Correct.

4 Q. Are there different makes and models of
5 these terminals?

6 A. Yes, we had different makes out there that
7 they could download.

8 Q. What does that mean exactly?

9 A. Just -- Well, you asked what we had sold
10 before.

11 Q. Uh-huh.

12 A. But, you know, there is other makes and
13 models out there of various -- in restaurants that
14 are something that we didn't sell that we could
15 download their information into and they could use.

16 Q. So the hardware could remain the same, the
17 terminal could remain the same, but you folks could
18 download a different kind of --

19 A. Right. What we sold was Nurits.

20 Q. Okay.

21 A. And what was out there could be, you know,
22 a VeriFone, a Hypercom, you know, different types --
23 There's all kinds of different credit card machines
24 out there.

1 Q. Okay. I don't know a whole lot about it,
2 so you are educating me today. I'm not asking
3 questions out of knowledge. Trust me.

4 A. Okay.

5 Q. So you are saying that you would have,
6 like, a Nurit for example. That was the hardware
7 that you would sell and that you could download a
8 different software on to that Nurit? Is that what
9 it would be?

10 A. No, there is different machines. If
11 someone came and said, I have this machine --

12 Q. Okay.

13 A. -- are you -- was, say, CardSystems able
14 to put their program in this machine? Might not
15 take it; it might.

16 Q. Okay. So your understanding of different
17 makes and models is that essentially the processing
18 center would somehow be able to configure the
19 existing model and make that essentially a different
20 model; is that right?

21 MR. NORA: Objection.

22 THE WITNESS: No, not change the model.

23 MR. NORA: Objection.

24 MR. ANDREOLI: I've got a form objection.

1 MS. ARRANZ: You can answer the question
2 if you understood it.

3 THE WITNESS: Can you rephrase it.

4 MS. ARRANZ: Can you read back the
5 question actually.

6 (Whereupon, the record was read.)

7 THE WITNESS: No, that would be wrong.
8 You are not changing the model.

9 MS. ARRANZ: Okay.

10 THE WITNESS: You are putting people's
11 information into it and there is always different
12 buttons to push to get that information into the
13 different models, you know, so that would be -- you
14 didn't actually change the model of the machine.
15 You just put the program in there.

16 BY MS. ARRANZ:

17 Q. So it's a new program on an existing
18 machine, correct?

19 A. Correct.

20 Q. Did you ever have any personal involvement
21 in that sort of programming?

22 A. No.

23 Q. Do you know if anybody at National
24 Translink would have had the capability of doing

1 what you have just described, reprogramming a
2 terminal?

3 A. Our technical support people programmed
4 terminals.

5 Q. If National Translink did not sell a
6 company its terminal, they just provided service for
7 a terminal, who would -- if there needed to be a
8 reprogramming of a terminal, who would do that sort
9 of reprogramming, do you know?

10 A. It would depend on the type.

11 Q. Of terminal?

12 A. Correct.

13 Q. Okay. If National Translink sold a
14 company a terminal, would National Translink always
15 be the company that would then do, like, the
16 programming, reprogramming or --

17 A. Yes.

18 Q. And that was true for the entire time that
19 you were at National --

20 A. We sold the terminal and we programmed it.

21 Q. So my answer is correct, right?

22 A. Correct.

23 Q. Question is correct? Now I'm going to
24 hand you some documents. We'll start with 1. I may

1 not use all of these, but -- I think I have copies
2 actually.

3 MR. ANDREOLI: Is this the whole set?

4 MS. ARRANZ: It should be. I may not use
5 all of them.

6 MR. ANDREOLI: All right.

7 BY MS. ARRANZ:

8 Q. Mr. Porch, I'm handing you a document.
9 The first page is a photocopy of a green card. It
10 looks like this actually -- I will show you the
11 original.

12 A. Yes.

13 Q. Do you recognize that document?

14 A. It's the subpoena that I got, right?

15 Q. Yeah, you can look. There's other
16 documents behind it.

17 A. Yes.

18 Q. So you have seen this document before,
19 correct?

20 A. Yes.

21 MS. ARRANZ: We are going to have this
22 marked as Exhibit 1 for the deposition today.

23 MR. ANDREOLI: Are we going to go straight
24 through, 1, 2, 3, 4, 5, or are we going to go

1 Plaintiff's 1, Defense 1? Do you guys have a
2 preference --

3 MR. NORA: Let's do Porch 1.

4 MS. ARRANZ: Yeah, I would prefer to do it
5 per deposition, so we'll do it Porch 1.

6 (Whereupon, a document was marked
7 Porch Deposition Exhibit 1 for
8 identification as of 1/29/09.)

9 BY MS. ARRANZ:

10 Q. In Exhibit 1 that is in front of you now,
11 that you said was a subpoena you received in this
12 case, correct?

13 A. Correct.

14 Q. And was that the document about which you
15 contacted Mr. Tracy?

16 A. Yes.

17 Q. And did you contact him on or about
18 January 15th?

19 A. Yes.

20 Q. When you received this Exhibit 1, did you
21 look for any documents?

22 A. No.

23 Q. Did you take any documents with you when
24 you left National --

1 A. Absolutely -- No.

2 Q. Did you review any documents prior to
3 today's deposition?

4 A. No.

5 Q. So you haven't seen the deposition of
6 James Tracy, right?

7 A. No.

8 Q. I am correct?

9 A. You are correct.

10 Q. I'm going to mark now two additional
11 Exhibits. This will be Exhibit 2. It's the notice
12 of subpoena records deposition from July 8, 2008,
13 and the subpoena records deposition for this matter
14 from December 26, 2008. The July 2008 subpoena will
15 be Exhibit 2 and the December 2008 exhibit will
16 be -- or 2008 subpoena will be Exhibit 3.

17 MR. ANDREOLI: December 26th?

18 MS. ARRANZ: Yes.

19 MR. ANDREOLI: Okay.

20 (Whereupon, documents were marked
21 Porch Deposition Exhibits 2-3 for
22 identification as of 1/29/09.)

23 BY MS. ARRANZ:

24 Q. Mr. Porch, the court reporter has handed

1 you Porch Exhibits 2 and 3. Can you look through
2 those documents for me, please, and let me know when
3 you are done reviewing them.

4 MR. ANDREOLI: Counsel, we are going to go
5 one at a time when we get to them?

6 MS. ARRANZ: Yeah. Off the record.

7 (Discussion had off the record.)

8 BY MS. ARRANZ:

9 Q. Okay. Have you seen Exhibit No. 2 prior
10 to today's deposition?

11 A. No.

12 Q. If you look at the last page of Exhibit 2,
13 the top of the page says, rider, and then it says,
14 documents to produce.

15 Did anybody contact you regarding
16 production of any of the documents listed there?

17 A. No.

18 Q. And then with Exhibit No. 3, the last two
19 pages of this Exhibit, it says, documents to
20 produce. You will notice that your name is listed
21 in Paragraph 1 of documents to produce on page -- Is
22 it Page 4 of Exhibit 3. And then on the following
23 page, your name is also listed in certain of these
24 paragraphs, paragraph 3 for example.

1 Did anyone go through this particular
2 rider of Exhibit 3 with you at any point in time?

3 A. No.

4 MR. ANDREOLI: Counsel, if you don't mind,
5 I'm going to note for purposes of the record that
6 items 3 and 4 on Porch Exhibit 3 were withdrawn
7 consistent with an agreement between Counsel for
8 National Translink and Counsel for the Plaintiffs.

9 MR. NORA: That is correct.

10 MR. ANDREOLI: Item 1 was effectively
11 mooted by Mr. Porch's appearance at the deposition
12 today.

13 BY MS. ARRANZ:

14 Q. So nobody had National Translink has
15 contacted you regarding those documents listed under
16 the riders for either Exhibit 2 or 3, correct?

17 A. That is correct.

18 Q. Did you have a computer, your own,
19 personal computer while you were employed by
20 National Translink?

21 A. There was a computer at my desk, yes.

22 Q. Did you have the same computer for the
23 five years that you were at National Translink?

24 A. No.

1 Q. How many different computers did you have
2 while employed there?

3 A. I believe it was three.

4 Q. Do you recall approximately when your
5 computer changed in that five year period of time?

6 A. I don't recall.

7 Q. Was the monitor changed, but your -- Let
8 me strike that.

9 Did National Translink have a, like,
10 common database or common intranet while you were
11 employed there?

12 A. We all worked off the same program, yes.

13 Q. What was the name of the program that you
14 worked off of while there?

15 A. I'm trying to remember. Sorry. I don't
16 recall. The only program they had, so --

17 Q. What exactly was the program? Can you
18 describe it to me, please?

19 A. Well, you just bring it up and you would
20 have -- Everybody's information was in it.

21 Q. Was it a customer database that you are
22 referring to?

23 A. Correct.

24 Q. And you're saying that everybody in the

1 customer service division of National Translink
2 would have had access to this customer database,
3 correct?

4 A. Correct.

5 Q. Have you used other kinds of databases
6 like Excel, Excel spreadsheets and other, like,
7 entry databases before?

8 A. No, this was -- no.

9 Q. Okay. Can you -- If I started at National
10 Translink and I wanted you to show me how to use
11 this customer database, how would you show me how to
12 use it? Essentially how does it work?

13 A. You would have to log on and go into
14 different windows, you know -- it's been -- Tell you
15 exactly how to do it, I couldn't.

16 Q. Abstractly, though, you can't tell me?

17 A. Right.

18 Q. Was there -- Was the customer database
19 something that there was a separate file for each
20 customer that National Translink had?

21 A. Yes.

22 Q. And could anybody within customer service
23 access a customer file in this customer database?

24 A. Yes.

1 Q. And could anybody in technical support
2 access a customer file in that customer --

3 A. No.

4 Q. -- database?

5 No, okay. Now if somebody in technical
6 support wanted to make a notation in a customer
7 file, do you know how they would go about doing
8 that?

9 A. They could make a note in there, but they
10 couldn't get into, like -- Statements, no. They
11 couldn't get into anything of that.

12 For -- As far as where they would order
13 paper or there was a technical thing done, they
14 could enter in, ordered paper for such person,
15 redownloaded machine and put in the date, yeah, they
16 would leave notes.

17 Q. Could somebody in technical support access
18 a customer file in the customer database and not
19 necessarily add a note or change it, but review the
20 file, if you know?

21 A. If it was -- For where the notes were for
22 ordering paper and such, they could review that.

23 Q. If somebody in technical support for
24 example wanted to access a customer's file to find

1 out what kind of terminal they were using, could
2 they do that if you know?

3 A. If it was listed, yes.

4 Q. What kind of information generally
5 speaking would have been on a customer file in the
6 customer database?

7 A. Name, address, point of contact for a
8 person.

9 Q. When you say -- I'm sorry to interrupt
10 you. When you say point of contact, are you talking
11 about --

12 A. Owner's name. If you had to call there
13 and ask for the owner.

14 Q. Okay. Anything else?

15 A. And normally we would put their HALO on
16 there.

17 Q. What is a HALO?

18 A. HALO is a High Amount Lock Out. Sales
19 over -- okay. Sales over -- Let's say your HALO is
20 at 2,000. You couldn't do a sale over 2,000 without
21 calling in. It's a risk tool.

22 Q. So besides name, address, point of contact
23 or owner name and HALO, was there anything else?

24 A. There would be notes on correspondence

1 with the customer.

2 MR. ANDREOLI: Counsel, do you mind if I
3 interrupt because I have a question.

4 Is HALO an acronym?

5 THE WITNESS: Yeah, HALO is High Amount
6 Lock Out.

7 MR. ANDREOLI: Thanks.

8 MR. NORA: High altitude-low opening.

9 MR. ANDREOLI: I apologize for
10 interrupting you.

11 MS. ARRANZ: That's okay.

12 BY MS. ARRANZ:

13 Q. Was this customer database that you
14 accessed on your computer, was it the only sort of
15 program that was on your computer?

16 A. No. That would be for ordering paper and
17 technical support notes and then I could also go
18 into a different -- For statements. They had a
19 different program for people's account information.

20 Q. Okay.

21 A. You know, so if you are calling in to talk
22 about money, you only can go through customer
23 service. There's only certain people you could talk
24 to. If you want to talk about my machine, the paper

1 is not working or it's not forwarding, something in
2 technical support for the actual machine, then they
3 put notes in, yeah.

4 Q. Besides the financial statement program
5 and the customer database program, did you have any
6 other kind of programs on your computer?

7 A. No, I did not.

8 Q. Now you stated that you changed computers
9 three times. Does that mean that you just moved
10 from one computer station to another?

11 A. No, I had actually -- the fan quit working
12 and the computer got really hot and they had to
13 change towers and give me a new whole computer.

14 Q. When your towers changed or when the
15 computer itself changed, the hardware changed, could
16 you still access this customer database?

17 A. Yeah, after they gave me a new computer, I
18 could access the database.

19 Q. Okay. So the hardware might have changed,
20 but the software, everything you could --

21 A. Nothing changed. The software was always
22 the same. It didn't change.

23 Q. Do you know -- I'm sorry. Strike that.

24 Did you have any -- Could you keep any

1 personal files on your computer at work?

2 A. No.

3 Q. So any of the work that you did while you
4 were at National Translink on your computer was
5 something that everybody else could access in
6 customer service; is that correct?

7 A. Correct.

8 MR. NORA: Objection. Everything he did
9 could be accessed by technical support?

10 MS. ARRANZ: I said customer service. And
11 he answered --

12 MR. NORA: Oh, customer service.

13 MS. ARRANZ: Yeah.

14 MR. NORA: I'm sorry.

15 BY MS. ARRANZ:

16 Q. Do you know that there is a federal
17 statute regarding the shortening of credit card
18 numbers on customer receipts?

19 A. Yes.

20 Q. When did you become aware of that federal
21 statute?

22 A. The exact date, I do not recall.

23 Q. Can you give me an approximate time frame?

24 A. Within the last year I was there. I would

1 say approximately six months before I left.

2 Q. All right. And my notes indicate that you
3 stated you left in January of 2008, correct?

4 A. Correct.

5 Q. And so your recollection is that you found
6 out about this federal statute in mid 2007; is that
7 right?

8 A. That's -- Yes, that is my estimation. You
9 know, I can't give you an exact date.

10 Q. Was it then in the summer of 2007 that you
11 learned about this federal statute?

12 MR. ANDREOLI: Objection to the form. Not
13 to put too fine a point on it, but it might be
14 useful to identify the statute.

15 MS. ARRANZ: I will do that in a minute.
16 I just want to get -- I'm trying to get a general
17 idea of what your -- Was it warm outside when you
18 were hearing about this federal statute, do you
19 know?

20 THE WITNESS: It went on for quite a
21 while. I mean, we had months of -- you know,
22 repeatedly we were -- put into our heads, make sure
23 you get the machines truncated. So this went on for
24 quite a while. It was part of our normal spiel is,

1 you know, you can only show the last four numbers,
2 so that was a real big thing with the government.

3 BY MS. ARRANZ:

4 Q. Okay. The federal statute I've been
5 referring to is called FACTA, F-A-C-T-A, and you are
6 stating to me that you recall that the company
7 essentially told you about this FACTA statute,
8 right? Is that correct?

9 A. Correct.

10 Q. And who at the company told you about the
11 FACTA statute?

12 A. It kind of came down in the business
13 meetings. It came down from the top, Mr. Tracy.
14 Come all the way down through the chain of command,
15 and, you know, that truncation was a big deal that
16 we had to do.

17 Q. Okay.

18 A. Okay.

19 Q. Did Jim Tracy have, you know, like in a
20 conference room, for example, business meetings
21 where he had all of his customer service
22 representatives present and he told you about what
23 the statute was?

24 A. Yes.

1 Q. When was the -- I know you were having
2 difficulty identifying a particular time frame, but
3 if you can think back, when exactly did those
4 meetings start? When was the first meeting if you
5 recall?

6 A. I can't recall an exact date.

7 Q. Okay. But sometime in mid 2007; is that
8 right?

9 A. Correct.

10 Q. And was there more than one meeting
11 regarding FACTA?

12 A. I believe there was the meeting and there
13 was plenty of memos.

14 Q. Can you give me an approximate number of
15 meetings that you recall having been present for?

16 A. I recall one.

17 Q. Okay. And the -- You said there was
18 papers circulated regarding FACTA, right?

19 A. Yes.

20 Q. And do you recall how often there was a
21 memo sent around regarding FACTA?

22 A. I couldn't give you an exact date, no.

23 Q. But I mean, how many times -- Was there
24 just one memo circulated or was there more than one

1 memo circulated if you recall?

2 A. There was numerous memos circulated. It
3 was on a sign on our desk, you know, don't forget to
4 truncate.

5 Q. And you gave me a little idea of what you
6 recall learning at these business meetings that the
7 only -- the last four numbers were supposed to be
8 included on a customer receipt; is that right?

9 A. Right.

10 Q. Was there anything else told to you about
11 the FACTA statute, what it required?

12 A. There was a -- if your machine -- There
13 were certain machines out there that couldn't
14 truncate, had -- the machine had to be replaced.

15 At that point, if you couldn't obey the
16 rules, you know, and get your machine truncated, you
17 know, we had -- at one point there where you
18 couldn't process.

19 Q. What do you mean by they couldn't -- you
20 couldn't process?

21 A. If your machine was showing all the
22 numbers and you didn't call in to get it truncated
23 or update your machine, you could be shut off.
24 There was a -- you know, that is what we were told.

1 Q. And by being shut off, do you mean that
2 they would literally not be able to use their credit
3 card --

4 A. The machine --

5 Q. -- machine?

6 A. -- wouldn't work.

7 Q. Okay. So you found out about FACTA. You
8 have this one business meeting that you can recall
9 and there were certain memos circulated.

10 What happened next with regard to National
11 Translink's making its customers aware of this
12 statute from your recollection?

13 A. They had a list of people we called. We
14 would let them know, and it would be reflected in
15 notes, you know, that we called this person about
16 truncation.

17 There is a -- We put it on the statement
18 when we sent out their statements at the -- you
19 know, on the bottom it would say that you must have
20 your machine truncated by such a date.

21 Q. Anything else?

22 A. That was pretty much it in repetition, you
23 know.

24 Q. Now you stated that this notification of

1 FACTA and the need to truncate was put on
2 statements. Was that something that you personally
3 were involved in?

4 A. No, I didn't print the statements. That
5 was just -- you know, the company put a disclaimer
6 on the bottom, you know, a little memo on the bottom
7 that says, hey, you must -- or not hey, but you have
8 to have your machine truncated.

9 Q. Okay.

10 A. And by such a date within -- to comply
11 with the law.

12 Q. But you weren't personally the person who
13 put that memo on the statement, correct?

14 A. No, I was not.

15 Q. And then you have mentioned that there was
16 also calls about truncation. Was every customer of
17 National Translink called regarding this truncation
18 requirement during the summer of 2007?

19 A. I couldn't tell you that every customer
20 was, no.

21 Q. Did you call any customers regarding
22 truncation in 2007?

23 A. I had a list of people I had to call at
24 one point, yes.

1 Q. Do you recall how long that list of
2 persons was?

3 A. Several pages.

4 Q. Over 200?

5 A. I couldn't tell you an exact number.

6 Q. Okay. And if you weren't able to get a
7 hold of a customer when you called about truncation,
8 what would you do then?

9 A. Put it in notes.

10 Q. Would you call again?

11 A. Yes.

12 Q. Would you call customers until you reached
13 somebody and were able to in your best estimation
14 tell them about this need to truncate?

15 A. I would call until I got a response, and
16 if I didn't, I would put it in notes.

17 Q. So there -- Strike that.

18 Do you recall there being customers that
19 you tried calling about this requirement and you
20 never were able to reach them, and so you just had
21 to reflect that in notes? You never actually talked
22 to a live person about truncating?

23 MR. NORA: Objection to the compound, the
24 form.

1 THE WITNESS: I don't recall. You know, I
2 couldn't give you an exact person, no.

3 BY MS. ARRANZ:

4 Q. But do you recall there being one or two
5 people or one or two owners that you were unable to
6 get in touch with regarding this truncation
7 requirement when you tried calling them?

8 A. There were people we could not get a hold
9 of, yes.

10 Q. And you stated that was something you,
11 Doug Porch, would have put in your notes in that
12 customer database, right?

13 A. Right. If I was going on the list and I
14 called and they weren't there, I would put in, tried
15 to reach customer on such date with no answer.

16 Q. Okay. Let's say that you were able to
17 reach somebody and you told them that they needed to
18 truncate. You know, that they needed this
19 requirement. What would be the next step for the
20 customer -- From your conversation, what would be
21 the next step for the customer?

22 A. Depending on the machine, they would need
23 to make themselves available to push buttons on the
24 machine so it could be truncated.

1 Q. And was that something that you would do
2 for them?

3 A. No, I would not do that. That would be
4 technical support.

5 Q. So if you reached somebody about this need
6 to truncate and they said, oh, okay. We're ready to
7 do that, then you would -- would you transfer them
8 to technical --

9 A. Then I would transfer to technical
10 support. They would take over.

11 Q. Okay. If it was an older machine, an
12 older credit card terminal, would it be something
13 that potentially the processing center would have
14 been involved in for purposes of truncating?

15 A. For certain machines they would have to go
16 through in California.

17 Q. Could you directly transfer them to the
18 processing center in California for purposes of
19 truncating, or would they have to make a separate
20 call?

21 A. No, they would have to make a separate
22 phone call.

23 Q. Give me just one second here. Are you
24 familiar with a credit card terminal type of T, as

1 in Tom, 7, P, as in Paul, Hypercom?

2 A. Yes.

3 Q. What do you know about that terminal, that
4 kind of terminal?

5 A. Hypercoms were generally done by
6 CardSystems, downloaded, and all the parameters done
7 through the people in California.

8 Q. Okay. So this Hypercom -- and I will
9 refer to that machine as a Hypercom from here on out
10 if that is okay?

11 A. Sure.

12 Q. The Hypercoms would be one of those
13 machines that would have to be -- for purposes of
14 truncating, that would be something covered by the
15 California processing center, correct?

16 A. Correct.

17 Q. So if you reached somebody, a customer who
18 had a Hypercom and you said, "Listen, there is this
19 Federal statute in place. You need to start
20 truncating your credit card numbers," and they said,
21 "Okay, well, what do we need to do now?" and they
22 had a Hypercom, would you then have given them the
23 phone number for the folks in California?

24 A. Yes, and they could call the technical

1 support out there and they would help them.

2 Q. If you were able to reach an owner like I
3 just described and you gave them the phone number to
4 call California, would you have any additional
5 conversations with them regarding the truncating?

6 A. If they had some problems, I guess they
7 would have to call us back. I couldn't -- You know,
8 I didn't have a follow-up call, no.

9 Q. Do you have any personal knowledge of what
10 Card Services would have needed to have done to help
11 facilitate a customer getting their machine to
12 truncate -- a Hypercom for example to truncate? Do
13 you know anything about that?

14 A. No.

15 Q. And you said that if they had problems
16 with this thereafter, they could call you folks,
17 customer service?

18 A. If they had problems with their machine,
19 they are going to call the place that was doing the
20 programming.

21 Q. Right.

22 A. The reason we sent them there is because
23 we couldn't do it.

24 Q. Okay. So any follow-up issues they would

1 have would be those same issues of call batches
2 or -- I mean, batches at the end of the day or --

3 A. How to operate the machine, they could
4 call us.

5 Q. Okay. But not with regard to the
6 truncating?

7 A. But as far as programming or making the
8 machine do something different, the program, it
9 would all be through -- through CardSystems.

10 Q. I think you said earlier too that there
11 was also a sign on your desk regarding the, like,
12 instructions too; is that right?

13 A. Oh, there were instructions to, like, do
14 an override. You know, nothing to do with
15 truncation. This is just like to make the
16 machine -- Let them do the sale over that amount is
17 what I was referring to.

18 Q. But I think you also said that there was
19 kind of like a note on your desk about -- you know,
20 make sure to tell them about truncating when you
21 called customers or they called you; is that right?

22 A. Or when I had the list that "You call
23 these people. They need to be truncated," you know.
24 I had a boss who wrote little memos on everything.

1 You know, "Don't forget to put in notes. Don't --"

2 You know, so she was sticky-note-happy.

3 Q. Okay. Did she use smiley faces on her
4 notes too?

5 A. Pretty much so.

6 Q. We might get to that in a little bit. We
7 are here specifically regarding a former customer of
8 National Translink and its name is Bacci Cafe and
9 Pizzeria on Ogden Avenue.

10 Have you ever heard of that customer
11 before?

12 A. I have heard of Bacci Pizza.

13 Q. What have you heard about the company?

14 A. I remember the name, dealing with them. I
15 don't, you know --

16 Q. Do you remember having any contact with
17 any owners or employees of Bacci Cafe?

18 A. I don't recall.

19 Q. Do you recall a time frame in which you
20 would have had any contact with the folks at Bacci
21 Cafe?

22 A. I talked to a lot of people every day. I
23 couldn't tell you exact time, no.

24 Q. Do you know when you -- when you first

1 heard of the company or customer of Bacci Cafe?

2 A. I couldn't give you an exact date, no.

3 Q. Do you recall having had any conversations
4 with anybody at Bacci Cafe regarding truncating of
5 credit card numbers on their credit card machine?

6 A. The exact conversation, no. I remember
7 the name.

8 Q. Okay. So I'm correct then, you don't
9 recall having had any conversations specifically
10 with Bacci Cafe regarding truncating of credit card
11 numbers on their credit card machines, correct?

12 MR. NORA: Objection to the form.

13 THE WITNESS: No, I talked to a lot of
14 people. It would be in notes if I spoke to them. I
15 couldn't tell you exactly yes or -- yes or no.

16 BY MS. ARRANZ:

17 Q. So you don't recall --

18 A. I don't recall.

19 Q. -- one way or the other, correct?

20 A. Correct.

21 Q. Do you recall having ever spoken to anyone
22 at National Translink about Bacci Cafe?

23 A. I don't recall directly, no.

24 Q. Have you spoken to anyone at National

1 Translink since you left the company regarding Bacci
2 Cafe?

3 A. I saw the name on the subpoena I got, and
4 that is -- You know, I called and like I said
5 before, and I talked to Jim, and he said you got to
6 answer these people's questions, and that's fine,
7 but that's it.

8 Q. So it was only in that context that you
9 even brought up the name Bacci Cafe?

10 A. Correct.

11 Q. All right. I'm going to mark as Exhibit
12 No. 4 for your deposition documents that have a
13 date -- It's got a cover letter on the front of it,
14 and it's dated August 20, 2008.

15 (Whereupon, a document was marked
16 Porch Deposition Exhibit 4 for
17 identification as of 1/29/09.)

18 MR. ANDREOLI: Do you want Doug to go
19 through the whole set?

20 MS. ARRANZ: Yeah, let me identify a
21 little better for the record. This is -- Porch
22 Exhibit 4 are documents starting with Bates label
23 SH/BA/NTC-001 through 0059, and I would like you to
24 just look through these documents. I'm going to

1 pinpoint some for you, but just generally speaking,
2 I guess my question would be if you've ever seen
3 these documents before.

4 THE WITNESS: I have seen the statement.
5 This was one of our statements.

6 MR. NORA: Why don't we let the Witness --

7 MS. ARRANZ: Yeah, review it first and --

8 MR. NORA: -- go through the entire
9 Exhibit.

10 MS. ARRANZ: And then we'll talk about it.

11 MR. ANDREOLI: And just by way of a clean
12 record, the objection I would have is there is quite
13 a few documents here and having him go through and
14 then indicate as to the entire set, it may -- if
15 there is -- It might be better if there is a
16 particular one, to ask him about it, just one way to
17 look at it.

18 Would it be all right if he just --
19 if he crossed each one and I know this one --

20 MS. ARRANZ: Yeah, you know, we can start
21 speaking about it specifically. I just didn't want
22 to hand you a bunch of documents and then ask you to
23 answer questions without looking at --

24 THE WITNESS: This is a bunch of

1 statements.

2 BY MS. ARRANZ:

3 Q. Well, let's go -- I'm going to pinpoint
4 some pages for you and you will notice on the bottom
5 right-hand corner of these pages except for the --
6 one of the first pages.

7 MR. NORA: While we talk about this
8 Exhibit 4, why don't we talk about pages 1, 2 --

9 MS. ARRANZ: That is exactly what I was
10 going to go through.

11 BY MS. ARRANZ:

12 Q. In the bottom right-hand corner of these
13 pages you will see --

14 A. (Indicating.)

15 Q. Yes. There is different numbers and I
16 have just identified what the first number is, 1,
17 and the last number is 59, so I'm going to refer you
18 to certain pages in these documents and that is kind
19 of what I'm referring to is that number in the
20 bottom right-hand corner.

21 MR. ANDREOLI: Quickly, these are numbers
22 that attorneys put on a document that let them
23 identify a document between themselves and then
24 later possibly for the Court.

1 THE WITNESS: Okay.

2 MR. ANDREOLI: It's just an identifying
3 number. It's not something that originally came
4 with --

5 THE WITNESS: Yeah, it's nothing that I
6 would recall.

7 MR. ANDREOLI: Right.

8 BY MS. ARRANZ:

9 Q. Okay. And I think you were saying that
10 Page 2, that first page after the cover letter, that
11 you said that that is a statement, right?

12 A. Correct.

13 Q. Is this a statement that would have been
14 sent to from your recollection -- or experience I
15 should say, a statement that would have been sent to
16 the customer here, Bacci Pizzeria?

17 A. Correct.

18 Q. Okay. I want you to look and find Page
19 47. Do you recognize this document?

20 A. Yes. I recognize my -- this is my writing
21 and stuff, yes.

22 Q. Let's first talk about -- It looks like
23 there is a portion of this that is typewritten and
24 there's a portion that is handwritten, right?

1 A. Correct.

2 Q. Okay. The typewritten -- typewritten
3 portion of this Page 47 of Exhibit 4, what is that?
4 Can you tell me what that is?

5 A. MCMTER. This is the terminal parameters
6 for their machine, Bacci's machine. It was faxed to
7 the people in California. It says, please truncate
8 and it's faxed --

9 Q. Okay. We're going to -- I'm sorry. I
10 don't mean to interrupt you. We'll get to the
11 handwritten portions. I just -- for my own
12 edification and knowledge, I just want to know --
13 because I didn't do this. I have never done this
14 before. I have never worked at National
15 Translink -- what exactly the typewritten portion
16 is.

17 Now you were saying it's terminal
18 parameters. I mean, was there a short way of
19 referring to this kind of -- the typewritten portion
20 of the document?

21 A. This is the type of machine, MCMTER.

22 Q. Okay.

23 MR. ANDREOLI: That is the term in the
24 upper left M-C-M-T-E-R, correct?

1 THE WITNESS: Correct.

2 BY MS. ARRANZ:

3 Q. How would you go about getting this
4 MCMTER?

5 A. I would go into the program, print it out
6 of the computer. This is the kind of machine they
7 have.

8 Q. And when you say the type of machine --

9 A. Listed under terminal type, it says T7P
10 Hypercom.

11 Q. So let me make sure I understand this
12 correctly. You would print out this page from the
13 customer database; is that right?

14 A. Correct.

15 Q. Okay. And it prints out -- it is called a
16 MCMTER and it's per customer, correct?

17 A. Correct.

18 Q. Okay. And here we can see that this
19 particular MCMTER on Page 47 of Exhibit 4, that that
20 regards Bacci Pizzeria, right?

21 A. Correct.

22 Q. And you are saying that it also includes
23 what type of terminal they have, correct?

24 A. Correct.

1 Q. All right. Is there any other
2 information? I see that there is an address on
3 here. Is there any other information relevant to
4 the customer from what you can see in strictly the
5 typewritten portion of this page?

6 A. You got their address on it.

7 Q. Right.

8 A. Name of -- The owner's name has been
9 blocked out, but other than that, yeah, it's just
10 got their -- just the machine and what type it is.

11 Q. Okay. Would the processing center have
12 access to this MCMTER information?

13 A. In California?

14 Q. Yes.

15 A. Yes.

16 Q. They would, okay. Do you know -- Would
17 they essentially be able to access this information
18 through a secure line from California if you know?

19 A. They would be able to pull up this
20 information, just as I did on the computer.

21 Q. Okay. Do you know is it something they
22 would be able to access then up on their computer
23 then also?

24 A. Yes.

1 Q. Do you know what date the report was run
2 that is on Page 47 of Exhibit 4?

3 A. No.

4 Q. Do any of the MCMTERs show what date a
5 specific report is run just in the typewritten
6 portion of the report?

7 A. Not that I see here. No, not at all.

8 Q. Separate from what you are looking at
9 right there though. Do you recall that --

10 A. I don't recall.

11 Q. Okay. Looking at this page, can you tell
12 me what kind of customer Bacci Cafe was, whether
13 they were one that had only services through
14 National Translink or whether they had purchased a
15 terminal from National Translink also?

16 MR. NORA: Objection to form.

17 THE WITNESS: No, I can't -- I couldn't
18 tell by looking at this piece of paper.

19 BY MS. ARRANZ:

20 Q. Okay. And we already talked about the
21 fact that the -- It's indicated here on Page 47 they
22 had a Hypercom terminal, correct?

23 A. Correct.

24 Q. Do you know if National Translink sold

1 that sort of terminal?

2 A. No.

3 Q. No, you don't know, or no, they did not?

4 A. I can't tell you whether they sold it or
5 not. You know, in all the time I was -- They went
6 on for a long time before I got there.

7 Q. Okay. So you have no knowledge one way or
8 the other?

9 A. I have no knowledge one way or the
10 another.

11 Q. But National Translink would have provided
12 services for that kind of terminal, correct?

13 A. Correct.

14 Q. All right. Now let's look at the
15 handwritten portions of Page 47 of Exhibit 4. Do
16 you know whose handwriting this is at the bottom of
17 that page?

18 A. That is my handwriting.

19 Q. All of the handwriting -- let's put -- I
20 think that No. 4 is probably not your handwriting,
21 correct? Do you see where your left hand is?

22 A. No, that is not mine.

23 Q. So but everything aside from --

24 MR. NORA: Excuse me. Just for the

1 record, by the 4, you are talking about the numeral
2 4 followed by a period, not the other 4 that might
3 be part --

4 THE WITNESS: Correct.

5 MR. NORA: Okay.

6 BY MS. ARRANZ:

7 Q. So all the handwritten notes on the
8 right-hand lower portion of this Page 47, all of
9 those handwritten notes are your handwritten notes,
10 correct?

11 A. Correct.

12 Q. Can you tell me what exactly your
13 handwritten notes are then, please?

14 A. It says the day I faxed this to Arizona to
15 truncate their machine.

16 Q. I just want to know if you could --
17 because I'm not very good with reading other
18 people's handwriting. Just literally from the top
19 to the bottom, if you could read to me what it says.

20 A. It says, faxed. My initials, DP. The
21 date, 4/28/06. It says 04/28/06, Friday. 10:55
22 a.m. Please truncate. Thanks, Doug. Only last
23 four credit card numbers to show.

24 Q. Okay. Why did you write this down on this

1 report, do you know?

2 A. Because they had to do the download
3 through the computer work in Arizona. Then they had
4 to call them and push buttons to pick up the program
5 on their machine.

6 Q. Okay. When you say they, I mean, you --

7 A. The customer.

8 Q. Okay.

9 A. Would have had to call Arizona -- or yes.
10 Call CardSystems in Arizona to get the -- and push
11 buttons on their machine while they are on the phone
12 to pick up the program --

13 Q. Do you know specifically --

14 A. -- through the phone lines.

15 Q. Do you know specifically when you made
16 these handwritten notes, though? For example, this
17 is why I'm asking this. It looks -- You have two
18 dates -- the same date, but you have the date
19 written twice here and the time written. Do you
20 know why you wrote the date down twice?

21 A. When I faxed it and I always put the date
22 and time on the top here for when I had to enter it
23 in notes.

24 Q. Okay.

1 A. Sounds redundant, but that is, you know,
2 the way I did it at that time.

3 Q. So I'm still confused. You say that it
4 says, faxed. DP, Doug Porch. And then it says the
5 date --

6 A. Well --

7 Q. Let me just finish.

8 A. Okay.

9 Q. And then you wrote the date again when you
10 faxed it?

11 A. Correct.

12 Q. And essentially what that number then --
13 and maybe I'm incorrect. Correct me if I'm wrong.
14 You basically put down April 28, 2006, Friday at
15 10:55 a.m.

16 Does that from your knowledge in looking
17 at this today make you think that that was the time
18 and date that you faxed this to Arizona?

19 A. Correct.

20 Q. Okay. Now it says, please truncate.
21 Thanks, Doug. Only last four credit card number to
22 show. Was -- Who is that written for?

23 A. The people in technical support in Arizona
24 where I faxed it to.